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MILEY CYRUS, also sued as MCEO Publishing,
GREGORY HEIN, also sued as Songs By Gregory Hein,
MICHAEL POLLACK, also sued as What Key Do You
Want it in Music, MCEO, INC., SONY MUSIC
ENTERTAINMENT, SONY MUSIC PUBLISHING (US) LLC,
PULSE 2.0, LLC, sued as These Are Pulse Songs, PURE
TONE MUSIC, LLC, sued as Songs With A Pure Tone,
CONCORD MUSIC PUBLISHING LLC, BLASTRONAUT,
INC., sued as Droog Publishing, WARNER-TAMERLANE
PUBLISHING CORP., AMAZON.COM SERVICES LLC,
APPLE INC., PANDORA MEDIA, LLC, DISNEY PLATFORM
DISTRIBUTION, INC., TARGET CORP., BARNES &
NOBLE BOOKSELLERS, INC., TIDAL MUSIC LLC,
WALMART INC., WAL-MART.COM USA, INC., WIDE
EYED GLOBAL, IHEARTMEDIA, INC., LIVE NATION
ENTERTAINMENT, INC., DEEZER, S.A., and XANDRIE, S.A.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

TEMPO MUSIC INVESTMENTS, LLC,)	Case No. 2:24-cv-07910-DDP-BFM
)	
Plaintiff,)	
)	ANSWER TO COMPLAINT
v.)	
)	
MILEY CYRUS, an individual; GREGORY HEIN, an individual; MICHAEL POLLACK, an individual; SONY MUSIC PUBLISHING (US) LLC; CONCORD MUSIC PUBLISHING LLC; WARNER- TAMERLANE PUBLISHING CORP.; MCEO PUBLISHING; WHAT KEY DO YOU WANT IT IN MUSIC; SONGS WITH A PURE TONE;)	DEMAND FOR JURY TRIAL
(continued next page))	

SONGS BY GREGORY HEIN;
DROOG PUBLISHING; THESE ARE
PULSE SONGS; WIDE EYED
GLOBAL; MCEO, INC.; SONY
MUSIC ENTERTAINMENT; APPLE
INC.; IHEARTMEDIA, INC.;
PANDORA MEDIA, LLC; DEEZER
S.A.; AMAZON.COM SERVICES
LLC; SOUNDCLOUD GLOBAL
LIMITED & CO. KG; TIDAL MUSIC
LLC; XANDRIE SA; LIVE NATION
ENTERTAINMENT, INC.; TARGET
CORP.; WAL-MART.COM USA, LLC;
WALMART INC.; BARNES &
NOBLE BOOKSELLERS, INC.;
DISNEY PLATFORM
DISTRIBUTION, INC.; and DOES 1-
10, inclusive,

Defendants.

ANSWER TO COMPLAINT

Defendants Miley Cyrus, also sued as MCEO Publishing, Gregory Hein, also sued as Songs By Gregory Hein, Michael Pollack, also sued as What Key Do You Want It In Music, and MCEO, Inc. (“Defendants”), answer the Complaint of plaintiff Tempo Music Investments, LLC (“Plaintiff”), as follows:

“INTRODUCTION”¹

1. Answering paragraph 1 of the Complaint, to the extent the allegations contained therein allege conclusions of law, Defendants are not required to plead thereto. To the extent the allegations are deemed allegations of fact, Defendants deny that this action arises out of the infringement by Defendants or anyone else of the copyright in the musical composition titled *When I Was Your Man*, and specifically deny that *Flowers* infringes Plaintiff’s claimed copyright or copyright interest in *When I Was Your Man*, and Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph and, on that basis, deny those allegations.

2. Answering paragraph 2 of the Complaint, Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph and, on that basis, deny those allegations.

3. Answering paragraph 3 of the Complaint, to the extent the allegations contained therein allege conclusions of law, Defendants are not required to plead thereto; to the extent the allegations are deemed allegations of fact, Defendants lack knowledge or information sufficient to form a belief as to the truth or falsity of the allegations in this paragraph and, on that basis, deny those allegations.

4. Answering paragraph 4 and footnote 1 of the Complaint, to the extent the allegations contained therein allege conclusions of law, Defendants are not required

¹ Defendants include the section headings from the Complaint in this Answer purely for ease of organization; to the extent those headings include any allegations of fact, Defendants deny each and every allegation thereof.

1 to plead thereto; to the extent the allegations are deemed allegations of fact,
2 Defendants admit that the sound recording titled *Flowers* was released in January
3 2023, that it features Miley Cyrus, a well-known recording artist and named as a
4 defendant in this action, and deny that *Flowers* copies *When I Was Your Man*, Michael
5 Pollack denies the accuracy of the statements attributed to him in the March 2023
6 *Billboard* article, and Defendants aver that—directly contrary to Plaintiff’s
7 allegations—another *Billboard* article instead stated:

8 “[N]ot only are there no direct samples or obvious interpolations between
9 ‘Flowers’ and ‘Your Man,’ there are no major sonic overlaps either —
10 no obvious shared melodies or rhythms, no major similarities in
11 production textures,”

12 and that *Billboard* article also quoted a music law expert’s statement that “There are
13 no songwriter credits [in *Flowers*] for the ‘When I Was Your Man’ writers because
14 no license should be necessary,” and Defendants lack knowledge or information
15 sufficient to form a belief as to the truth or falsity of the remaining allegations
16 contained therein and, on that basis, deny those allegations.

17 5. Answering paragraph 5 of the Complaint, Defendants admit that *Flowers*
18 debuted at No. 1 on the Billboard Hot 100 chart, that *Flowers* broke the record to
19 become the fastest song to reach one billion streams on streaming service Spotify, that
20 *Flowers* earned Ms. Cyrus her first Grammy wins for Record of the Year and Best
21 Pop Solo Performance at the 66th Annual Grammy Awards in February 2024, that
22 Ms. Cyrus performed *Flowers* live at the 66th Annual Grammy Awards in February
23 2024, and that *Flowers* won Best International Song at the Brit Awards in 2024;
24 Defendants lack knowledge or information sufficient to form a belief as to the truth
25 or falsity of the allegations in this paragraph and, on that basis, deny those allegations.

26 6. Answering paragraph 6 of the Complaint, Defendants object to the extent
27 that the allegations contained therein require the opinion of an expert and that
28 purporting to require that Defendants respond at this time is improper and premature

1 under Federal Rule of Civil Procedure 26; as to any non-expert allegations,
2 Defendants deny the allegations contained therein.

3 7. Answering paragraph 7 of the Complaint, to the extent the allegations
4 contained therein allege conclusions of law, Defendants are not required to plead
5 thereto; to the extent the allegations are deemed allegations of fact, Defendants admit
6 that Plaintiff purports to bring this action for copyright infringement and Plaintiff
7 claims that all defendants have engaged in the unauthorized reproduction, distribution,
8 and exploitation of *When I Was Your Man*, deny that any defendant has infringed a
9 copyright in *When I Was Your Man*, deny that *Flowers* copies *When I Was Your Man*,
10 and lack knowledge or information sufficient to form a belief as to the truth or falsity
11 of the remaining allegations in this paragraph and, on that basis, deny those
12 allegations.

13 **“JURISDICTION AND VENUE”**

14 8. Answering paragraph 8 of the Complaint, to the extent the allegations
15 contained therein allege conclusions of law, Defendants are not required to plead
16 thereto; to the extent the allegations are deemed allegations of fact, Defendants admit
17 that Plaintiff contends the Court has subject matter jurisdiction pursuant to 28 U.S.C.
18 § 1331 and 28 U.S.C. § 1338(a) insofar as Plaintiff purports to assert a claim under
19 the Copyright Act, and Defendants deny each and every remaining allegation
20 contained therein.

21 9. Answering paragraph 9 of the Complaint, the allegations consist of legal
22 conclusions to which no response is required. To the extent any response is required,
23 Defendants, without conceding that personal jurisdiction is appropriate as to any other
24 defendant in this action, do not dispute personal jurisdiction over Defendants in this
25 action.

26 10. Answering paragraph 10 of the Complaint, the allegations consist of legal
27 conclusions to which no response is required. To the extent any response is required,
28

1 Defendants, without conceding that venue is appropriate as to any other defendant in
2 this action, do not dispute that venue is proper as to Defendants in this action.

3 **“PARTIES”**

4 11. Answering paragraph 11 of the Complaint, to the extent the allegations
5 contained therein allege conclusions of law, Defendants are not required to plead
6 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
7 knowledge or information sufficient to form a belief as to the truth or falsity of the
8 allegations contained therein and, on that basis, deny those allegations.

9 12. Answering paragraph 12 of the Complaint, to the extent the allegations
10 contained therein allege conclusions of law, Defendants are not required to plead
11 thereto; to the extent the allegations are deemed allegations of fact, Ms. Cyrus admits
12 she is an individual who resides in Los Angeles County, California, that she is an
13 accomplished singer, songwriter, and actress, that she has received multiple Grammy
14 nominations and three Grammy awards, Teen Choice Awards, Billboard Music
15 Awards, World Music Awards, MTV Video Music Awards, a People’s Choice
16 Award, and a GLAAD Media Award, that she performs *Flowers*, and that she is
17 credited as a co-author of *Flowers*, and Ms. Cyrus denies the remaining allegations in
18 this paragraph; and the remaining Defendants deny that any “infringing conduct”
19 occurred and lack knowledge or information sufficient to form a belief as to the truth
20 or falsity of the remaining allegations in this paragraph and, on that basis, deny those
21 remaining allegations.

22 13. Answering paragraph 13 of the Complaint, to the extent the allegations
23 contained therein allege conclusions of law, Defendants are not required to plead
24 thereto; to the extent the allegations are deemed allegations of fact, Gregory Hein
25 admits that he is an individual who resides in Los Angeles County, California, that he
26 has co-written hit songs for artists including Justin Bieber, Shawn Mendes, and John
27 Legend, that he is credited as a co-author of *Flowers*, and that he has received Grammy
28 nominations for Song of the Year for *Flowers* and Album of the Year for the album

1 *Endless Summer Vacation*, which includes *Flowers*, and Mr. Hein denies the
2 remaining allegations in this paragraph; and the remaining Defendants deny that any
3 “infringing conduct” occurred and lack knowledge or information sufficient to form
4 a belief as to the truth or falsity of the remaining allegations in this paragraph and, on
5 that basis, deny those remaining allegations.

6 14. Answering paragraph 14 of the Complaint, to the extent the allegations
7 contained therein allege conclusions of law, Defendants are not required to plead
8 thereto; to the extent the allegations are deemed allegations of fact, Michael Pollack
9 admits that he is an individual who resides in Los Angeles County, California, that he
10 is an accomplished songwriter and producer whose songs for artists such as Maroon
11 5 and Justin Bieber have topped the Billboard music charts, that he is credited as a co-
12 author of *Flowers*, and that he has received seven Grammy nominations, three of
13 which are for *Flowers*, and Mr. Pollack denies the remaining allegations in this
14 paragraph; and the remaining Defendants deny that any “infringing conduct” occurred
15 and lack knowledge or information sufficient to form a belief as to the truth or falsity
16 of the remaining allegations in this paragraph and, on that basis, deny those remaining
17 allegations.

18 15. Answering paragraph 15 of the Complaint, to the extent the allegations
19 contained therein allege conclusions of law, Defendants are not required to plead
20 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
21 knowledge or information sufficient to form a belief as to the truth or falsity of the
22 allegations in this paragraph and, on that basis, deny those allegations.

23 16. Answering paragraph 16 of the Complaint, to the extent the allegations
24 contained therein allege conclusions of law, Defendants are not required to plead
25 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
26 knowledge or information sufficient to form a belief as to the truth or falsity of the
27 allegations in this paragraph and, on that basis, deny those allegations.

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1 17. Answering paragraph 17 of the Complaint, to the extent the allegations
2 contained therein allege conclusions of law, Defendants are not required to plead
3 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
4 knowledge or information sufficient to form a belief as to the truth or falsity of the
5 allegations in this paragraph and, on that basis, deny those allegations.

6 18. Answering paragraph 18 of the Complaint, to the extent the allegations
7 contained therein allege conclusions of law, Defendants are not required to plead
8 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
9 knowledge or information sufficient to form a belief as to the truth or falsity of the
10 allegations in this paragraph and, on that basis, deny those allegations.

11 19. Answering paragraph 19 of the Complaint, MCEO, Inc. (“MCEO”)
12 admits that it is a corporation organized under the laws of the state of Tennessee, with
13 its principal place of business in Nashville, Tennessee and that it is a music publisher
14 that participates in the licensing of *Flowers*, and MCEO denies the remaining
15 allegations in this paragraph; and the remaining Defendants lack knowledge or
16 information sufficient to form a belief as to the truth or falsity of the allegations in this
17 paragraph and, on that basis, deny those allegations.

18 20. Answering paragraph 20 of the Complaint, to the extent the allegations
19 contained therein allege conclusions of law, Defendants are not required to plead
20 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
21 knowledge or information sufficient to form a belief as to the truth or falsity of the
22 allegations in this paragraph and, on that basis, deny those allegations.

23 21. Answering paragraph 21 of the Complaint, to the extent the allegations
24 contained therein allege conclusions of law, Defendants are not required to plead
25 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
26 knowledge or information sufficient to form a belief as to the truth or falsity of the
27 allegations in this paragraph and, on that basis, deny those allegations.

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1 22. Answering paragraph 22 of the Complaint, to the extent the allegations
2 contained therein allege conclusions of law, Defendants are not required to plead
3 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
4 knowledge or information sufficient to form a belief as to the truth or falsity of the
5 allegations in this paragraph and, on that basis, deny those allegations.

6 23. Answering paragraph 23 of the Complaint, to the extent the allegations
7 contained therein allege conclusions of law, Defendants are not required to plead
8 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
9 knowledge or information sufficient to form a belief as to the truth or falsity of the
10 allegations in this paragraph and, on that basis, deny those allegations.

11 24. Answering paragraph 24 of the Complaint, to the extent the allegations
12 contained therein allege conclusions of law, Defendants are not required to plead
13 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
14 knowledge or information sufficient to form a belief as to the truth or falsity of the
15 allegations in this paragraph and, on that basis, deny those allegations.

16 25. Answering paragraph 25 of the Complaint, to the extent the allegations
17 contained therein allege conclusions of law, Defendants are not required to plead
18 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
19 knowledge or information sufficient to form a belief as to the truth or falsity of the
20 allegations in this paragraph and, on that basis, deny those allegations.

21 26. Answering paragraph 26 of the Complaint, to the extent the allegations
22 contained therein allege conclusions of law, Defendants are not required to plead
23 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
24 knowledge or information sufficient to form a belief as to the truth or falsity of the
25 allegations in this paragraph and, on that basis, deny those allegations.

26 27. Answering paragraph 27 of the Complaint, to the extent the allegations
27 contained therein allege conclusions of law, Defendants are not required to plead
28 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack

1 knowledge or information sufficient to form a belief as to the truth or falsity of the
2 allegations in this paragraph and, on that basis, deny those allegations.

3 28. Answering paragraph 28 of the Complaint, to the extent the allegations
4 contained therein allege conclusions of law, Defendants are not required to plead
5 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
6 knowledge or information sufficient to form a belief as to the truth or falsity of the
7 allegations in this paragraph and, on that basis, deny those allegations.

8 29. Answering paragraph 29 of the Complaint, to the extent the allegations
9 contained therein allege conclusions of law, Defendants are not required to plead
10 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
11 knowledge or information sufficient to form a belief as to the truth or falsity of the
12 allegations in this paragraph and, on that basis, deny those allegations.

13 30. Answering paragraph 30 of the Complaint, to the extent the allegations
14 contained therein allege conclusions of law, Defendants are not required to plead
15 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
16 knowledge or information sufficient to form a belief as to the truth or falsity of the
17 allegations in this paragraph and, on that basis, deny those allegations.

18 31. Answering paragraph 31 of the Complaint, to the extent the allegations
19 contained therein allege conclusions of law, Defendants are not required to plead
20 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
21 knowledge or information sufficient to form a belief as to the truth or falsity of the
22 allegations in this paragraph and, on that basis, deny those allegations.

23 32. Answering paragraph 32 of the Complaint, to the extent the allegations
24 contained therein allege conclusions of law, Defendants are not required to plead
25 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
26 knowledge or information sufficient to form a belief as to the truth or falsity of the
27 allegations in this paragraph and, on that basis, deny those allegations.

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1 33. Answering paragraph 33 of the Complaint, to the extent the allegations
2 contained therein allege conclusions of law, Defendants are not required to plead
3 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
4 knowledge or information sufficient to form a belief as to the truth or falsity of the
5 allegations in this paragraph and, on that basis, deny those allegations.

6 34. Answering paragraph 34 of the Complaint, Ms. Cyrus denies the
7 allegations in this paragraph; and the remaining Defendants lack knowledge or
8 information sufficient to form a belief as to the truth or falsity of the allegations in this
9 paragraph and, on that basis, deny those allegations.

10 35. Answering paragraph 35 of the Complaint, Mr. Pollack denies the
11 allegations in this paragraph; and the remaining Defendants lack knowledge or
12 information sufficient to form a belief as to the truth or falsity of the allegations in this
13 paragraph and, on that basis, deny those allegations.

14 36. Answering paragraph 36 of the Complaint, to the extent the allegations
15 contained therein allege conclusions of law, Defendants are not required to plead
16 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
17 knowledge or information sufficient to form a belief as to the truth or falsity of the
18 allegations in this paragraph and, on that basis, deny those allegations.

19 37. Answering paragraph 37 of the Complaint, Mr. Hein denies the
20 allegations in this paragraph; and the remaining Defendants lack knowledge or
21 information sufficient to form a belief as to the truth or falsity of the allegations in this
22 paragraph and, on that basis, deny those allegations.

23 38. Answering paragraph 38 of the Complaint, to the extent the allegations
24 contained therein allege conclusions of law, Defendants are not required to plead
25 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
26 knowledge or information sufficient to form a belief as to the truth or falsity of the
27 allegations in this paragraph and, on that basis, deny those allegations.

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1 39. Answering paragraph 39 of the Complaint, to the extent the allegations
2 contained therein allege conclusions of law, Defendants are not required to plead
3 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
4 knowledge or information sufficient to form a belief as to the truth or falsity of the
5 allegations in this paragraph and, on that basis, deny those allegations.

6 40. Answering paragraph 40 of the Complaint, to the extent the allegations
7 contained therein allege conclusions of law, Defendants are not required to plead
8 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
9 knowledge or information sufficient to form a belief as to the truth or falsity of the
10 allegations in this paragraph and, on that basis, deny those allegations.

11 41. Answering paragraph 41 of the Complaint, to the extent the allegations
12 contained therein allege conclusions of law, Defendants are not required to plead
13 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
14 knowledge or information sufficient to form a belief as to the truth or falsity of the
15 allegations in this paragraph and, on that basis, deny those allegations.

16 42. Answering paragraph 42 of the Complaint, to the extent the allegations
17 contained therein allege conclusions of law, Defendant is not required to plead thereto;
18 to the extent the allegations are deemed allegations of fact, Defendants deny the
19 allegations in this paragraph.

20 **“FACTUAL BACKGROUND**

21 **“I. Plaintiff Acquires a Share of the Copyright in ‘When I Was Your Man’”**

22 43. Answering paragraph 43 of the Complaint, to the extent the allegations
23 contained therein allege conclusions of law, Defendants are not required to plead
24 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
25 knowledge and information sufficient to form a belief as to the truth or falsity of the
26 allegations in this paragraph and, on that basis, deny those allegations.

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1 44. Answering paragraph 44 of the Complaint, Defendants lack knowledge
2 and information sufficient to form a belief as to the truth or falsity of the allegations
3 in this paragraph and, on that basis, deny those allegations.

4 45. Answering paragraph 45 of the Complaint, to the extent the allegations
5 contained therein allege conclusions of law, Defendants are not required to plead
6 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
7 knowledge or information sufficient to form a belief as to the truth or falsity of the
8 allegations in this paragraph and, on that basis, deny those allegations.

9 **“II. Defendants Have Access to ‘When I Was Your Man’ Prior to Creating and**
10 **Exploiting ‘Flowers’”**

11 46. Answering paragraph 46 of the Complaint, to the extent the allegations
12 contained therein allege conclusions of law, Defendants are not required to plead
13 thereto. To the extent the allegations in that paragraph are deemed allegations of fact,
14 Ms. Cyrus admits that she was at the iHeartRadio Music Festival in Las Vegas,
15 Nevada, on September 21, 2013, as a performer where she performed her hit song
16 *Wrecking Ball* and not as a fan to watch other artists perform at that festival, and lacks
17 knowledge or information sufficient to form a belief as to the truth or falsity of the
18 remaining allegations in this paragraph and, on that basis, deny those allegations; and
19 the remaining Defendants lack knowledge or information sufficient to form a belief
20 as to the truth or falsity of the allegations in this paragraph and, on that basis, deny
21 those allegations.

22 **“III. ‘Flowers’ Is Substantially Similar to ‘When I Was Your Man’”**

23 47. Answering Paragraph 47 of the Complaint, Defendants admit that
24 *Flowers* was released in or about January 2023, approximately ten years after *When I*
25 *Was Your Man*, and deny the remaining allegations in this paragraph.

26 48. Answering paragraph 48 of the Complaint, to the extent the allegations
27 contained therein allege conclusions of law, Defendants are not required to plead

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1 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
2 the allegations in that paragraph.

3 **“A. Comparison of the Verse of ‘When I Was Your Man’ and the**
4 **Chorus of ‘Flowers’”**

5 49. Answering paragraph 49 of the Complaint, to the extent the allegations
6 contained therein allege conclusions of law, Defendants are not required to plead
7 thereto; to the extent the allegations are deemed allegations of fact, Defendants object
8 that the allegations require the opinion of an expert and purporting to require that
9 Defendants respond at this time is improper and premature under Federal Rule of Civil
10 Procedure 26, and as to any non-expert allegations, Defendants lack knowledge or
11 information sufficient to form a belief as to the truth or falsity of the allegations
12 contained therein and, on that basis, deny those allegations.

13 50. Answering paragraph 50 of the Complaint, Defendants object that the
14 allegations require the opinion of an expert and purporting to require that Defendants
15 respond at this time is improper and premature under Federal Rule of Civil Procedure
16 26, and as to any non-expert allegations, Defendants lack knowledge or information
17 sufficient to form a belief as to the truth or falsity of the allegations contained therein
18 and, on that basis, deny those allegations.

19 51. Answering paragraph 51 of the Complaint, Defendants object that the
20 allegations require the opinion of an expert and purporting to require that Defendants
21 respond at this time is improper and premature under Federal Rule of Civil Procedure
22 26, and as to any non-expert allegations, Defendants lack knowledge or information
23 sufficient to form a belief as to the truth or falsity of the allegations contained therein
24 and, on that basis, deny those allegations.

25 **“B. Comparison of the Chorus of ‘When I Was Your Man’ and the**
26 **Chorus of ‘Flowers’”**

27 52. Answering paragraph 52 of the Complaint, Defendants object that the
28 allegations require the opinion of an expert and purporting to require that Defendants

1 respond at this time is improper and premature under Federal Rule of Civil Procedure
2 26, and as to any non-expert allegations, Defendants lack knowledge or information
3 sufficient to form a belief as to the truth or falsity of the allegations contained therein
4 and, on that basis, deny those allegations.

5 53. Answering paragraph 53 of the Complaint, Defendants object that the
6 allegations require the opinion of an expert and purporting to require that Defendants
7 respond at this time is improper and premature under Federal Rule of Civil Procedure
8 26, and as to any non-expert allegations, Defendants lack knowledge or information
9 sufficient to form a belief as to the truth or falsity of the allegations contained therein
10 and, on that basis, deny those allegations.

11 54. Answering paragraph 54 of the Complaint, Defendants object that the
12 allegations require the opinion of an expert and purporting to require that Defendants
13 respond at this time is improper and premature under Federal Rule of Civil Procedure
14 26, and as to any non-expert allegations, Defendants lack knowledge or information
15 sufficient to form a belief as to the truth or falsity of the allegations contained therein
16 and, on that basis, deny those allegations.

17 55. Answering paragraph 55 of the Complaint, Defendants object that the
18 allegations require the opinion of an expert and purporting to require that Defendants
19 respond at this time is improper and premature under Federal Rule of Civil Procedure
20 26, and as to any non-expert allegations, Defendants lack knowledge or information
21 sufficient to form a belief as to the truth or falsity of the allegations contained therein
22 and, on that basis, deny those allegations.

23 56. Answering paragraph 56 of the Complaint, Defendants deny that a
24 comparison of the lyrics of the songs “suggests that the musical similarities are no
25 coincidence”; as to the remaining allegations, Defendants object that the allegations
26 require the opinion of an expert and purporting to require that Defendants respond at
27 this time is improper and premature under Federal Rule of Civil Procedure 26, and as
28 to any non-expert allegations in this paragraph, Defendants lack knowledge or

1 information sufficient to form a belief as to the truth or falsity of the allegations
2 contained therein and, on that basis, deny those allegations.

3 57. Answering paragraph 57 of the Complaint, to the extent the allegations
4 contained therein allege conclusions of law, Defendants are not required to plead
5 thereto; to the extent the allegations are deemed allegations of fact, Defendants object
6 that the allegations require the opinion of an expert and purporting to require that
7 Defendants respond at this time is improper and premature under Federal Rule of Civil
8 Procedure 26, and as to any non-expert allegations in this paragraph, Defendants lack
9 knowledge or information sufficient to form a belief as to the truth or falsity of the
10 allegations contained therein and, on that basis, deny those allegations.

11 58. Answering paragraph 58 of the Complaint, Defendants object that the
12 allegations in that paragraph require the opinion of an expert and purporting to require
13 that Defendants respond at this time is improper and premature under Federal Rule of
14 Civil Procedure 26, and as to any non-expert allegations in this paragraph, Defendants
15 lack knowledge or information sufficient to form a belief as to the truth or falsity of
16 the allegations contained therein and, on that basis, deny those allegations.

17 **“C. The Closing or Post-Chorus Sections of ‘Flowers’”**

18 59. Answering paragraph 59 of the Complaint, Defendants object that the
19 allegations in that paragraph require the opinion of an expert and purporting to require
20 that Defendants respond at this time is improper and premature under Federal Rule of
21 Civil Procedure 26, and as to any non-expert allegations in this paragraph, Defendants
22 lack knowledge or information sufficient to form a belief as to the truth or falsity of
23 the allegations contained therein and, on that basis, deny those allegations.

24 60. Answering paragraph 60 of the Complaint, to the extent the allegations
25 contained therein allege conclusions of law, Defendants are not required to plead
26 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
27 the allegations.

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1 **“IV. Defendants Willfully and Knowingly Exploit ‘Flowers’ Despite Its**
2 **Infringement of ‘When I Was Your Man’”**

3 61. Answering paragraph 61 of the Complaint, to the extent the allegations
4 contained therein allege conclusions of law, Defendants are not required to plead
5 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
6 the allegations.

7 62. Answering paragraph 62 of the Complaint, to the extent the allegations
8 contained therein allege conclusions of law, Defendants are not required to plead
9 thereto; Defendants object to Plaintiff’s “shotgun pleading” of these allegations,
10 making sweeping, vague, and undifferentiated allegations regarding all Defendants,
11 notwithstanding that each Defendant is a separate individual or entity with differing
12 roles relating to *Flowers*; to the extent the allegations are deemed allegations of fact,
13 Defendants each, for itself alone, admits that it has in some fashion been involved in
14 the use or other exploitation of *Flowers* and in some instances revenues were derived
15 therefrom by some Defendants, and Defendants, to the extent that they did not
16 participate in the production, preparation, licensing, marketing, or promotion of
17 *Flowers*, deny Plaintiff’s shotgun allegations as to them, and Defendants lack
18 knowledge or information sufficient to form a belief as to the truth or falsity of the
19 remaining allegations in this paragraph and, on that basis, deny the allegations.

20 63. Answering paragraph 63 of the Complaint, to the extent the allegations
21 contained therein allege conclusions of law, Defendants are not required to plead
22 thereto; to the extent the allegations are deemed allegations of fact, Defendants admit
23 that Cyrus has performed and continues to perform *Flowers*, including in concerts,
24 videos, and television, each Defendant, for itself alone, admits that he, she, or it has
25 in some fashion been involved in the use or other exploitation of *Flowers*, and
26 Defendants lack knowledge or information sufficient to form a belief as to the truth
27 or falsity of the remaining allegations in this paragraph and, on that basis, deny the
28 allegations.

1 **“CLAIMS FOR RELIEF**

2 **FIRST CLAIM FOR RELIEF**

3 **(COPYRIGHT INFRINGEMENT (17 U.S.C. § 101 *et seq.*) AGAINST**
4 **ALL DEFENDANTS)”**

5 64. Defendants repeat and reallege their responses set forth above in
6 paragraphs 1 through 63 as if fully set forth herein.

7 65. Answering paragraph 65 of the Complaint, to the extent the allegations
8 contained therein allege conclusions of law, Defendants are not required to plead
9 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
10 knowledge or information sufficient to form a belief as to the truth or falsity of the
11 remaining allegations contained therein and, on that basis, deny the allegations.

12 66. Answering paragraph 66 of the Complaint, to the extent the allegations
13 contained therein allege conclusions of law, Defendants are not required to plead
14 thereto; to the extent the allegations are deemed allegations of fact, Defendants lack
15 knowledge or information sufficient to form a belief as to the truth or falsity of the
16 remaining allegations contained therein and, on that basis, deny the allegations.

17 67. Answering paragraph 67 of the Complaint, to the extent the allegations
18 contained therein allege conclusions of law, Defendants are not required to plead
19 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
20 they created *Flowers*, deny they copied *When I Was Your Man*, and lack knowledge
21 or information sufficient to form a belief as to the truth or falsity of the remaining
22 allegations contained therein and, on that basis, deny those allegations.

23 68. Answering paragraph 68 of the Complaint, to the extent the allegations
24 contained therein allege conclusions of law, Defendants are not required to plead
25 thereto; to the extent the allegations are deemed allegations of fact, Defendants object
26 that the allegations require the opinion of an expert and purporting to require that
27 Defendants respond at this time is improper and premature under Federal Rule of Civil
28 Procedure 26; as to any non-expert allegations remaining in this paragraph,

1 Defendants deny that *Flowers* copies *When I Was Your Man* and lack knowledge or
2 information sufficient to form a belief as to the truth or falsity of the remaining
3 allegations contained therein and, on that basis, deny those allegations.

4 69. Answering paragraph 69 of the Complaint, to the extent the allegations
5 contained therein allege conclusions of law, Defendants are not required to plead
6 thereto; to the extent the allegations are deemed allegations of fact, Defendants each,
7 for itself alone, admits that it did not seek or receive permission to copy or interpolate
8 any portion of *When I Was Your Man* into *Flowers*, denies that any such permission
9 was needed; as to any other defendants, each Defendant lacks knowledge or
10 information sufficient to form a belief as to the truth or falsity of the allegations
11 contained therein and, on that basis, denies the allegations.

12 70. Answering paragraph 70 of the Complaint, to the extent the allegations
13 contained therein allege conclusions of law, Defendants are not required to plead
14 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
15 the allegations.

16 71. Answering paragraph 71 of the Complaint, to the extent the allegations
17 contained therein allege conclusions of law, Defendants are not required to plead
18 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
19 the allegations.

20 72. Answering paragraph 72 of the Complaint, to the extent the allegations
21 contained therein allege conclusions of law, Defendants are not required to plead
22 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
23 the allegations.

24 73. Answering paragraph 73 of the Complaint, to the extent the allegations
25 contained therein allege conclusions of law, Defendants are not required to plead
26 thereto; Defendants object to Plaintiff's "shotgun pleading" of these allegations,
27 making sweeping, vague, and undifferentiated allegations regarding all Defendants,
28 notwithstanding that each Defendant is a separate company with differing roles

1 relating to *Flowers*; to the extent the allegations are deemed allegations of fact,
2 Defendants each, for itself alone, admits that it has in some fashion been involved in
3 the use or other exploitation of *Flowers* and in some instances revenues were derived
4 therefrom by some Defendants, and Defendants, to the extent that they did not induce,
5 cause, and materially contribute to the production, preparation, licensing, marketing,
6 promotion, or other exploitation of *Flowers*, deny Plaintiff's shotgun allegations as to
7 them, and Defendants lack knowledge or information sufficient to form a belief as to
8 the truth or falsity of the remaining allegations in this paragraph and, on that basis,
9 deny the allegations.

10 74. Answering paragraph 74 of the Complaint, to the extent the allegations
11 contained therein allege conclusions of law, Defendants are not required to plead
12 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
13 the allegations.

14 75. Answering paragraph 75 of the Complaint, to the extent the allegations
15 contained therein allege conclusions of law, Defendants are not required to plead
16 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
17 the allegations.

18 76. Answering paragraph 76 of the Complaint, to the extent the allegations
19 contained therein allege conclusions of law, Defendants are not required to plead
20 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
21 the allegations.

22 77. Answering paragraph 77 of the Complaint, to the extent the allegations
23 contained therein allege conclusions of law, Defendants are not required to plead
24 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
25 the allegations.

26 78. Answering paragraph 78 of the Complaint, to the extent the allegations
27 contained therein allege conclusions of law, Defendants are not required to plead

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1 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
2 the allegations.

3 79. Answering paragraph 79 of the Complaint, to the extent the allegations
4 contained therein allege conclusions of law, Defendants are not required to plead
5 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
6 the allegations.

7 80. Answering paragraph 80 of the Complaint, to the extent the allegations
8 contained therein allege conclusions of law, Defendants are not required to plead
9 thereto; to the extent the allegations are deemed allegations of fact, Defendants deny
10 the allegations.

11 **AFFIRMATIVE DEFENSES**

12 81. Defendants do not presently know all of the facts and circumstances
13 relating to Plaintiff's claim and reserve the right to amend this Answer, including but
14 not limited to adding different or additional affirmative defenses. Subject to the
15 foregoing, and without waiving or excusing Plaintiff's burden of proof, or admitting
16 that any of the following are affirmative defenses upon which Defendants have any
17 burden of proof as opposed to denials of matters as to which Plaintiff has the burden
18 of proof, or that Defendants have any burden of proof at all, Defendants hereby assert
19 the following affirmative defenses.

20 **FIRST AFFIRMATIVE DEFENSE**

21 **(Failure to State a Claim)**

22 82. Plaintiff's Complaint fails to state a claim upon which relief may be
23 granted.

24 **SECOND AFFIRMATIVE DEFENSE**

25 **(Lack of Standing)**

26 83. Plaintiff lacks standing to sue for infringement, including under § 501(b)
27 of the Copyright Act of 1976, 17 U.S.C. §§ 101 et. seq.

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THIRD AFFIRMATIVE DEFENSE

(Co-Owners of Copyright)

84. To the extent that Defendants, or any of them, are co-owners of the *When I Was Your Man* copyright, they cannot be liable for infringement of that copyright.

FOURTH AFFIRMATIVE DEFENSE

(Independent Creation)

85. The allegedly infringing work was created independently of the allegedly infringed work.

FIFTH AFFIRMATIVE DEFENSE

(Lack of Originality or Protectability)

86. The allegedly copied elements or materials lack originality or otherwise are not protected by copyright.

SIXTH AFFIRMATIVE DEFENSE

(Plaintiff's Lack of Ownership of the Allegedly Copied Material)

87. Plaintiff does not own the allegedly infringed copyright or any other rights in or to the portions of the claimed works that are allegedly copied.

SEVENTH AFFIRMATIVE DEFENSE

(Fair Use)

88. Without admitting the alleged use of any copyrighted material allegedly owned by Plaintiff, which is denied, the conduct of which Plaintiff complains constitutes fair use.

EIGHTH AFFIRMATIVE DEFENSE

(Failure to Comply with Copyright Act Formalities)

89. Plaintiff's claims and/or the remedies Plaintiff seeks are barred by the failure to comply with the Copyright Act of 1976, 17 U.S.C. §§ 101 *et seq.*, including but not limited to 17 U.S.C. §§ 401 and 408, and each of them.

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1 **NINTH AFFIRMATIVE DEFENSE**

2 **(Waiver)**

3 90. Plaintiff's claims and/or the remedies Plaintiff seeks are barred by the
4 doctrine of waiver.

5 **TENTH AFFIRMATIVE DEFENSE**

6 **(License)**

7 91. Without admitting the use of any copyrighted material allegedly owned
8 by Plaintiff, which is denied, the conduct of which Plaintiff complains was impliedly
9 and/or expressly licensed.

10 **ELEVENTH AFFIRMATIVE DEFENSE**

11 **(Laches)**

12 92. Plaintiff's claim and/or the remedies Plaintiff seeks are barred by the
13 doctrine of laches.

14 **RESERVATION OF RIGHTS**

15 93. Defendants reserve the right to assert additional affirmative defenses if
16 discovery or Defendants' investigation reveals grounds for the assertion of the
17 additional defenses, including without limitation affirmative defenses that are
18 referenced in Rule 8(c) of the Federal Rules of Civil Procedure or are otherwise
19 available under applicable law.

20 **PRAYER FOR RELIEF**

21 **WHEREFORE**, Defendants pray for judgment as follows:

22 1. That Plaintiff take nothing by way of its Complaint and that the
23 Complaint be dismissed with prejudice;

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1 2. That Defendants be awarded their costs and attorneys' fees; and

2 3. For such other and further relief as the Court deems just and proper.

3
4 Dated: March 26, 2025

/s/ Peter Anderson

Peter Anderson, Esq.

Eric H. Lamm, Esq.

Alexandra P. Cadena, Esq.

DAVIS WRIGHT TREMAINE LLP

Attorneys for Defendants

MILEY CYRUS, also sued as MCEO
Publishing, GREGORY HEIN, also sued as
Songs By Gregory Hein, MICHAEL
POLLACK, also sued as What Key Do You
Want it in Music, MCEO, INC., SONY
MUSIC ENTERTAINMENT, SONY MUSIC
PUBLISHING (US) LLC, PULSE 2.0, LLC,
sued as These Are Pulse Songs, PURE TONE
MUSIC, LLC, sued as Songs With A Pure
Tone, CONCORD MUSIC PUBLISHING
LLC, BLASTRONAUT, INC., sued as Droog
Publishing, WARNER-TAMERLANE
PUBLISHING CORP., AMAZON.COM
SERVICES LLC, APPLE INC., PANDORA
MEDIA, LLC, DISNEY PLATFORM
DISTRIBUTION, INC., TARGET CORP.,
BARNES & NOBLE BOOKSELLERS, INC.,
TIDAL MUSIC LLC, WALMART INC.,
WAL-MART.COM USA, INC., WIDE EYED
GLOBAL, IHEARTMEDIA, INC., LIVE
NATION ENTERTAINMENT, INC.,
DEEZER, S.A., and XANDRIE, S.A.

DEMAND FOR JURY TRIAL

Defendants Miley Cyrus, also sued as MCEO Publishing, Gregory Hein, also sued as Songs By Gregory Hein, Michael Pollack, also sued as What Key Do You Want It In Music, and MCEO, Inc. respectfully demand trial by jury.

Dated: April 1, 2025

/s/ Peter Anderson

Peter Anderson, Esq.

Eric H. Lamm, Esq.

Alexandra P. Cadena, Esq.

DAVIS WRIGHT TREMAINE LLP

Attorneys for Defendants

MILEY CYRUS, also sued as MCEO Publishing, GREGORY HEIN, also sued as Songs By Gregory Hein, MICHAEL POLLACK, also sued as What Key Do You Want it in Music, MCEO, INC., SONY MUSIC ENTERTAINMENT, SONY MUSIC PUBLISHING (US) LLC, PULSE 2.0, LLC, sued as These Are Pulse Songs, PURE TONE MUSIC, LLC, sued as Songs With A Pure Tone, CONCORD MUSIC PUBLISHING LLC, BLASTRONAUT, INC., sued as Droog Publishing, WARNER-TAMERLANE PUBLISHING CORP., AMAZON.COM SERVICES LLC, APPLE INC., PANDORA MEDIA, LLC, DISNEY PLATFORM DISTRIBUTION, INC., TARGET CORP., BARNES & NOBLE BOOKSELLERS, INC., TIDAL MUSIC LLC, WALMART INC., WAL-MART.COM USA, INC., WIDE EYED GLOBAL, IHEARTMEDIA, INC., LIVE NATION ENTERTAINMENT, INC., DEEZER, S.A., and XANDRIE, S.A.